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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,102	09/12/2003	Milan Visnic	U 014811-7	6567

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,102

Applicant(s)

MILAN VISNIC ET AL.

Examiner

Yvonne M. Horton

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,669,404 to LeBLANC. LeBLANC discloses the use of a portable wall including a wall portion (70), a cast concrete base (60) and at least one duct (30) extending through the ends of the wall portion (70). Regarding claim 2, the duct (30) is disposed within the base (60). In reference to claim 12, wall (70) is cast concrete and is mounted to the base (60).

Claims 1,3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,550,819 to DeSANTO, Sr. DeSANTO, Sr. discloses the use of a portable wall including a wall portion (16), a cast concrete base (18) and at least one duct (12) extending through the ends of the wall portion (16). Regarding claim 3, the duct (12) is disposed within the wall (16). In reference to claim 10, wall (16) is cast concrete.

Claims 1,13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,075,800 to MOLICK. MOLICK discloses the use of a portable wall including a wall portion (11,28), a cast concrete base (12) and at least one duct (23) extending through the ends of the wall portion (11). Regarding claim 13, the wall portion (28) is formed of sheet material and is spaced from the wall portion (11) to

provide a hollow (26). In reference to claim 14, the duct (23) extends through the hollow (26).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,669,404 to LeBLANC in view of US Patent #4,157,815 to SAVISKI et al. LeBLANC discloses the basic claimed wall except for explicitly detailing the use of a plurality of ducts. SAVISKI et al. teaches that it is known in the art to provide a wall system with a plurality of ducts (32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the wall of LeBLANC with the plurality of ducts, as taught by SAVISKI et al. in order to properly communicate fluids, electrical equipment, etc. to and from a structure.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,669,404 to LeBLANC in view of US Patent #4,157,815 to SAVISKI et al. as applied to claim 4 above, and further in view of US Patent #4,879,851 to BOCCIA. LeBLANC as modified by SAVISKI et al., does not teach te use of the duct explicitly being for water. Although SAVISKI et al. does teach using his ducts for cooling, he does not explicitly detail the use of water. BOCCIA, however, teaches that it is known in the art to use ducts (24) for carrying water. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made for the ducts of LeBLANC, as modified by SAVISKI et al., to carry water, as taught by BOCCIA, in order to properly drain excess water from the structure.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,669,404 to LeBLANC in view of US Patent #4,157,815 to SAVISKI et al. as applied to claim 4 above, and further in view of US Patent #5,417,017 to TOUTOUNTZIS. LeBLANC as modified by SAVISKI et al., does not teach te use of the duct explicitly being for electrical devices. Although SAVISKI et al. does teach using his ducts for cooling, he does not explicitly detail the use of water. TOUTOUNTZIS , however, teaches that it is known in the art to use ducts (31) for carrying electrical devices (41). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made for the ducts of LeBLANC, as modified by SAVISKI et al., to carry electrical devices, as taught by TOUTOUNTZIS in order to properly provide the structure with the ability to have lights and other electrically operable machinery.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,669,404 to LeBLANC in view of US Patent #4,167,986 to CONWAY.

LeBLANC discloses the basic claimed wall except for explicitly detailing the use of An expanded polystyrene material in the ducts. CONWAY teaches that it is known in the art to provide a duct (51) with a polystyrene material (51) therein. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the wall of LeBLANC with the polystyrene material in the ducts, as taught by CONWAY, in order to better insulate the assembly.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yvonne M. Horton
Art Unit 3635
4/16/05